

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JOAN D. GREEN Civil No. 05-6227-HO

and DAVID I. GREEN,

ORDER

Plaintiffs,

v.

WORLD FAMOUS, INC.,

Defendant,

Defendant prevailed at a jury trial on plaintiffs' claim for violation of Uniform Commercial Code provisions regulating repossession and disposal of vehicle collateral. Defendant filed a motion for award of attorney fees.

Discussion

As the parties agree, the court has discretion to award reasonable attorney fees. Or. Rev. Stat. § 79.0625(3)(c). The court has considered the factors set forth in Section 20.075(1) of the Oregon Revised Statutes. Plaintiff's UCC claim went to trial after surviving several dispositive motions. Plaintiffs

introduced evidence that a required notice of intent to dispose of collateral was irregular. According to his billing documentation, defense counsel considered whether defendant should admit it failed to give the required notice. Leslie Aff., ex. A at 2. For these reasons, the UCC claim was not objectively unreasonable. At trial, plaintiffs' counsel attempted to impeach a defense witness with a prior conviction in the absence of facts demonstrating that the offense of conviction was a felony. Nevertheless, because plaintiffs' UCC claim was not objectively unreasonable, and in order not to discourage the filing of meritorious claims, no fees are awarded.

Conclusion

Based on the foregoing, defendant's motion for attorney fees [#177] is denied.

IT IS SO ORDERED.

DATED this 12th day of June, 2007.

s/ Michael R. Hogan
United States District Judge